

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

RAYMOND HERSCHEL JOHNSON, SR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case Number CIV-06-115-C
	)	
SHERIFF WHETSEL, et al.,	)	
	)	
Defendants.	)	

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Now before the Court is a civil action initiated under 42 U.S.C. § 1983 by Plaintiff Raymond Herschel Johnson, Sr. (Johnson), a state prisoner appearing pro se. Consistent with 28 U.S.C. § 636(b)(1)(B), the Court referred the motion to Magistrate Judge Robert E. Bacharach who, in turn, entered a Report and Recommendation (R&R) on March 10, 2006. In the R&R, Judge Bacharach recommended the dismissal of Johnson's action without prejudice to refiling due to Johnson's failure to pay the requisite in forma pauperis payment and his failure to demonstrate good cause for his failure to pay. Johnson timely filed a letter which the Court construes as an objection; accordingly, the matter is ripe for disposition. The Court considers the matter de novo. Northington v. Marin, 102 F.3d 1564, 1570 (10th Cir. 1996); 28 U.S.C. § 636(b)(1).

The facts and relevant law are set out in full in the accurate and well-reasoned R&R. No point would be served in repeating that analysis. Johnson's objection is incoherent, due to his use of legalistic jargon and incomplete sentences, and fails to raise any argument of law or fact which would require a different result. Indeed, to date Johnson has neither made

partial payment nor explained his tardiness. Johnson's failure to pay the requisite fees appears to be a long-standing pattern. The Court notes that the Tenth Circuit previously instituted filing restrictions against Johnson for his manifestly abusive litigation activity spanning numerous years, including his consistent failure to make in forma pauperis payments. Johnson v. Cowley, 872 F.2d 342 (10th Cir. 1989).

Accordingly, the Court **ADOPTS**, in its entirety, Judge Bacharach's R&R [Dkt. No. 6], and for the reasons announced therein, Johnson's action is dismissed without prejudice to refiling. Johnson's Notice of Intent to Appeal [Dkt. No. 8] is **STRICKEN AS MOOT**, as a prisoner is not required to obtain a certificate of appealability to appeal a civil rights action.

IT IS SO ORDERED this 1st day of May, 2006.

  
ROBIN J. CAUTHRON  
United States District Judge